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**DEC 04 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Johnson et al. :  
Application No. 10/575,528 : DECISION ON PETITION  
Filed: April 2, 2007 :  
Attorney Docket No. MONT-028/01US :  
306509-2174 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed March 24, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on April 25, 2009. A Notice of Abandonment was mailed October 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of \$810.00 and (3) a proper statement of unintentional delay.

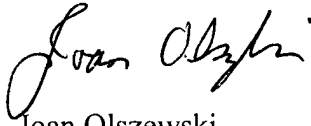
Further, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,175.00, five-month extension of

time fee submitted on October 6, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-7751.

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received.

A handwritten signature in black ink, appearing to read "Joan Olszewski". The signature is fluid and cursive, with a large initial "J" and a stylized "O".

Joan Olszewski  
Petitions Examiner  
Office of Petitions